**THE HON'BLE SRI JUSTICE GODA RAGHURAM**

**AND**

**THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY**

WRIT PETITION No.9822 of 2006

Dated 09-05-2006

Between:

M/s Sachin Enterprices, Akola.

..Petitioner

AND

Assistant Commercial Tax Officer,

Chittoor, and two others.

..Respondents

**THE HON'BLE SRI JUSTICE GODA RAGHURAM**

**AND**

**THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY**

WRIT PETITION No.9822 of 2006

O R D E R: (Per **GR,J**)

Petitioner claims to be a registered dealer at Akola carrying on

business in chemicals and registered with the commercial tax department, Akola in Maharashtra State under the Bombay Sales Tax Act, 1959 which is not the Maharashtra Value Added Tax Act, 2005.

Petitioner claims to have purchased caustic soda flakes from M/s DCW Limited, Sahupuram, Thootaukudi District, Tamilnadu for transportation to Akola. While the goods were in transit and entered the state of Andhra Pradesh, the vehicle was intercepted and detained and eventually after a show-cause notice proposing confiscation, an order of confiscation was passed on 27-02-2006. After an unsuccessful endeavour in challenging the order of confiscation before this Court by way of a writ petition and on the basis of the observations of this Court while disposing of the writ petition, the petitioner preferred an appeal to the second respondent on 16-03-2006 along with an application for interim stay of the order of confiscation. While so, after the petitioner's application for interim relief was heard by the second respondent and orders were reserved to be passed, the third respondent issued the impugned auction sale notification dated 25-04-2006 proposing auction of the goods on 10-05-2006. In these circumstances, the petitioner approached this Court.

Having heard the learned counsel and the learned Government Pleader for Commercial tax, the writ petition is disposed of at the stage of admission.

The respondents cannot in fairness proceed with the auction sale notification even while the petitioner's appeal dated 16-03-2006 along with the application for interim relief is pending consideration by the second respondent, appellate authority. At least the interlocutory application of the petitioner in the appeal could be rendered infructous by such precipitated conduct of the third respondent.

In the circumstances, the auction sale notification dated
25-04-2006 pursuant to the third respondent's order, is suspended pending the disposal of the petitioner's application for interim relief

filed along with the appeal before the second respondent. The second respondent is directed to expeditiously, in any event within a period of two weeks from the date of receipt of a copy of this order dispose of either the appeal or at least the petitioner's application for interim relief directed against the order of confiscation passed by the first respondent. The order either in the appeal or in the interlocutory application shall be communicated to the petitioner by the second respondent within the aforesaid date by any verifiable mode of communication. Till the communication of order to the petitioner by the second respondent as above directed, the third respondent shall withhold further process of the auction, pursuant to the auction sale notification dated 25-04-2006.

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**GODA RAGHURAM**

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**M. VENKATESWARA REDDY**

Dated 09-05-2006

ghn/kvni